



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
OREGON OPERATIONS OFFICE
805 SW Broadway, Suite 500
Portland, Oregon 97205

December , 2009

Mr. Robert Wyatt
Northwest Natural & Chairman, Lower Willamette Group
220 Northwest Second Avenue
Portland, Oregon 97209

Re: Portland Harbor Superfund Site; Administrative Order on Consent for Remedial Investigation and Feasibility Study; Docket No. CERCLA-10-2001-0240 – EPA's Preliminary Identification of ARARS at the Portland Harbor Site for Development of the Feasibility Study

Dear Mr. Wyatt:

This letter provides EPA's current list of potential applicable or relevant and appropriate requirements (ARARs) for the Portland Harbor Superfund Site. Based on information presented in the draft Remedial Investigation (RI) Report and the draft baseline human health and ecological risk assessments, EPA has updated and refined the list of state and federal standards and requirements that the Portland Harbor cleanup will likely need to meet. Enclosure 1 to this letter presents the comprehensive list of federal and state standards that EPA has determined are ARARs or likely will be ARARs for one or more remedial alternatives analyzed in the feasibility study. EPA expects that the ARARs presented in Enclosure 1 will be used in the development, screening and detailed evaluation of remedial action alternatives in the draft feasibility study (FS) for the Portland Harbor Site.

In developing the current list of ARARs, EPA has considered the remedial investigation and risk assessment information discussed above, and the following documents:

1. Portland Harbor RI/FS Programmatic Work Plan dated April 23, 2004;
2. EPA's letter to the Lower Willamette Group regarding application of Safe Drinking Water Act Maximum Contaminant Levels (MCLs) dated September 27, 2005;
3. Two background documents developed by the Lower Willamette Group (LWG) on application of Oregon Water Quality Standards dated July 2, 2008 and the Weight to be Given to Attaining MCLs in Portland Harbor dated September 4, 2008;
4. The table of potential ARARs developed by the Lower Willamette Group dated March 19, 2009;

5. The State of Oregon's June 12, 2009 response to EPA's April 10, 2009 request for the identification of ARARs;

6. EPA's direction on remedial action objectives for the Portland Harbor site dated September 30, 2009; and

7. The LWGs October 7, 2009 response to EPA's direction on RAOs.

Additionally, we considered other information discussed in various meetings between EPA and the LWG on the topic of ARARs including, but not limited to meetings that took place on April 13, 2009, September 8, 2009 and September 25, 2009.

As more specifics are developed about the remedial alternatives that will be analyzed in the FS, further refinement of the specific standards or requirements listed in Enclosure 1 will need to occur and other laws and regulations may be identified. For example, if an on-site upland disposal site for dredged materials is considered, more specific requirements for siting, construction or operation of a landfill or other groundwater protection requirements will need to be identified under federal and state solid waste regulations. Likewise, if any alternative includes on-site treatment of RCRA characteristic or listed waste, additional RCRA (federal and state) and possibly Clean Air Act requirements will need to be identified. New federal or state laws or regulations promulgated prior to issuing the ROD could also add or change the ARARs for the site.

~~Significant information was exchanged and discussed about the application of Safe Drinking Water Act standards to groundwater and surface water at the site as well as ambient water quality criteria, in particular, human health criteria. Enclosure 2 to this letter provides additional discussion about those particular standards and their application to the Portland Harbor cleanup. Regarding points of compliance, EPA has attempted to be as specific as possible at this point in the process. However, it should be recognized that the approach outlined in Table 2 is for purposes of the evaluation of remedial action alternatives. The feasibility study itself may provide information that would change the points of compliance and the appropriate compliance monitoring methodology, and/or public comment could lead to revisions as well. EPA will make its final determination regarding protectiveness and compliance with ARARs at the time of the Record of Decision (ROD) for the Portland Harbor site.~~

Additionally, there have been regulations or guidance documents suggested as being ARARs or that should be To Be Considered ("TBC") standards for the remedy which, given current information EPA disagrees are ARARs or should be TBCs. Enclosure 32 to this letter provides a list of the proposed standards or guidances that EPA has not included on the ARARs/TBC list due to lack of sufficient basis or explanation.

With the information enclosed with this letter, the LWG can proceed with the Feasibility Study with most if not all of the key ARARs that may impact, implementability, protectiveness, and cost of the remedial alternatives.

Sincerely,

Chip Humphrey
Eric Blischke
Remedial Project Managers

cc: Greg Ulirsch, ATSDR
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